

III. REMARKS

Claims 1-7 are not unpatentable under 35 U.S.C. 103(a) over Delprat in view of Lenzo.

The claimed invention is concerned with the problem of better utilization of the capacity of a radio interface, particularly an uplink channel.

Delprat discloses a timing feature, where downlink control data will be sent during periods where NO terminal is sending data in the uplink (see column 8, lines 7-10). The examples of Figs. 4 to 7 merely disclose that two data units are sent in order to allow the receiver to get the mode change done in the terminals or base station. Thus there is no motivation to combine Delprat with Lenzo, since Lenzo specifically aims in simultaneously sending and receiving (from a base station cluster). This would be considered causing "serious disturbance of traffic" in Delprat. In particular, column 2, lines 38-42, and column 3, lines 3-11, of Delprat specifically indicate, that the aim of Delprat is to avoid such serious disturbances. Where the references have conflicting teachings, it is improper to combine them, see Karsten Manufacturing Corp. v. Cleveland Golf Co. 58 USPQ2d 1286, 1293. Here, if the references are combined, the channel capacity is made worse due to the resulting disturbances. This is against the object of the presently claimed invention.

Thus the rejection of claims 1-7 on the above references should be withdrawn.

New dependent claims 8-11 recite that the broadcast message comprises at least one of control information or information about an access time slot, and the control information is composed of the identifier of the access point, identifier of the network operator, or identifier of the transmission sector. Deprat discloses in column 3, lines 3-4, what is transmitted in the control frame, which is not any of the above claimed features. Similarly, Lenzo fails to disclose these features. Thus even if the references are combined, the result is not the invention claimed in claims 8-11. For this additional reason these claims are patentable.

New dependent claims 12 and 13 recite that there is only a single access point.

Lenzo discloses that each base station has a defined channel definition. Column 7, lines 23-27, discloses that for reaching a combination of channel definitions of figures 4B and 4C, two different base stations shall be colocated. Thus there is no only one access point as recited in claims 12 and 13, but two. Similarly, Delprat fails to disclose this feature. Hence combining the references does not result in the invention of claims 12 and 13. For this additional reason, claims 12 and 13 are patentable.

New dependent claims 14-17 recite that at least one of the broadcast messages comprises control information. Neither reference discloses this feature, and therefore combining them does not result in the invention claimed in claims 14-17. Thus these claims are additionally patentable for this reason.

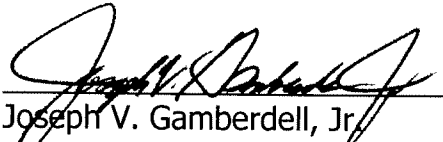
For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

10/089,426

Response to the Office Action mailed March 8, 2007

The Commissioner is hereby authorized to charge payment for the "RCE" fee (\$790) as well as any other fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,


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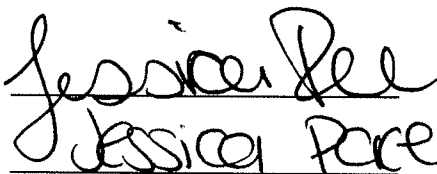
8 June 2007
Date

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